DRIVING WHILE IMPAIRED
Drivers, Charges and Outcomes

Province of
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Ministry of
Attorney General
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Executive Summary

Police and court records of all legally impaired drivers charged in 1980 (N=1,531) in 12 RCMP detachments on Vancouver Island were examined and the results of this examination are as follows:

DRIVER AND VEHICLE CHARACTERISTICS

Comparing the apprehended and charged drivers with the characteristics of the legally impaired driver population (Mercer, 1983) the apprehended and charged drivers, like the legally impaired driver population as a whole, tend to be male (89.7%), under 50 years of age (85.1%), coming from a bar (71.3%), and are driving a car (70.1%). Also, like the legally impaired population, they are found most frequently later in the week (26.6% on Saturdays and only 5.8% on Mondays) and later in the evening (49.1% between 2200-0159 hours and only 1.6% between 0600-0959 hours).

In addition, the apprehended drivers are most likely to be single (49.4%), have had more than one previous non-criminal driving violation (61.0%), and be driving a vehicle over 7 years old (66.0%). Finally, 24.0% have had previous Driving While Impaired (DWI) convictions.

From the comparison of the characteristics of this sample with the general characteristics of impaired drivers in British Columbia, it appears that the police are doing a good job in terms of apprehending and charging a representative cross section of impaired drivers with one exception: those drivers with a very high BAC are overrepresented in the apprehended and charged group. Regarding this latter point, only about 1% of the legally impaired drivers on the road have a BAC of 181+ mg./100 ml., while 31% of those apprehended have a BAC over 180 mg./100 ml. On the other hand, the drivers in this study's highest BAC category (181 + mg./100 ml.) have a 77 times

greater chance of being apprehended than those in the lowest BAC category (80 - 140 mg./100 ml.).

CHARGES AND OUTCOMES

Considering ways that drivers were stopped and charged, 53.2% were stopped on a "routine check", probably because they were exhibiting some driving behaviour that brought them to the attention of the officer, 22.8% were in accidents, 5.0% were stopped and charged at roadblocks, 10.2% were reported by the public, and 8.8% were stopped on some other charge (e.g. faulty lights).

The evidence presented to the courts by the police and Crown seems to be extremely effective, as fully 87% of those charged with one or more offence under Section 234 (driving while impaired), 235 (refusal to blow), and/or 236 (BAC of 80 +mg./100 ml.) were found or pleaded guilty on one or more charges (the provincial figures for these guilty dispositions in 1980 was 84%). The general pattern was: to be charged under both Sections 234 and 236 (75.2%) or under both Sections 234 and 235 (13.0%); to be given a stay of proceedings on one charge; and to be found or plead quilty on the second charge. This is in line with the Keinapple vs the Queen (1974) decision which essentially states that one cannot have multiple convictions on the same offence. Very few drivers were charged under Section 234 only (1.4%) or under Section 236 only (0.8%). Finally, only 11.0% of the sample actually went to trial, and of these, 67.5% were found guilty on one or more counts.

Those charged under both Sections 234 and 236 show a greater tendency (90%) to plead guilty (and thus save court time and costs) then do those charged under both Sections 234 and 235 (70%). It follows that the evidence of a blood alcohol reading (BAC) has an important psychological impact on the accused.

RECIDIVISM

Comparing the 24% of the apprehended drivers who had previous convictions under Sections 234, 235 and 236 with those who had no previous DWI charges, one finds that the recidivists were likely to be male and were likely to have an unusually high BAC, with 31% of those in the highest BAC group having had previous DWI convictions and only 12% of those in the lowest BAC group having had previous DWI convictions. From this, one suspects that these recidivists are consistently heavy drinkers who often drive while impaired. That is, if the chances are slight of being caught when driving while impaired, they are extremely slight of being caught twice or more, and therefore it is likely that the recidivists frequently drive while impaired.

Regarding non-criminal driving convictions, the high BAC group does not appear to consist of a particularly bad set of drivers, as when they are compared to the lower BAC groups they have generally fewer non-criminal driving convictions. However, they do tend to be overrepresented in the 41-60 year old group and in the separated, divorced, and widowed group. Further, they are overrepesented in the group of drivers apprehended during the daylight hours.

From the above, one derives a picture of a male, middle-aged chronic drinker with an unstable or non-existent family life who is not responding to the current sanctions imposed by the court. This person drinks and drives and will continue to do so until he is unable to do the one or the other. Being in the very high BAC group he is amongst the most dangerous drinking drivers on the road, and he is the one least likely to change his habits, as evidenced by his recidivist status.

ACCIDENT INVOLVEMENT

From the comparison of those apprehended drivers involved in accidents with those apprehended drivers not involved in accidents, it is noteworthy that there were no differences between the two groups, at least in terms of the variables examined. It would appear that factors other than age, sex, marital status and so on are critical in predicting those who will be involved in accidents. On the other hand, comparing the BAC of those in accidents with the BAC norms for the province as a whole, those in the highest BAC group (180+ mg./100 ml.) have about a one in eighteen or 63 times greater chance of being in an accident than those in the low group (80 - 140 mg./100 ml).

RECOMMENDATIONS

1. The police are doing a good job of apprehending a representative cross-section of drinking drivers, but the proportion of drinking drivers apprehended is quite small, especially among those legally impaired drivers with a relatively low BAC. It is therefore recommended that more use be made of random spot checks and roadblocks, possibly with mandatory ALERT type BAC testing. Additionally, these would be best employed late in the day and late in the week.

2. The public is acting in a generally responsible fashion in reporting drinking drivers, as over 10% of those charged were reported by the public. Therefore it is recommended that resources be directed to further encourage this behaviour on the part of the public, and to make more effective the ability of the police to respond to such reports.

3. Inasmuch as there is a higher likelihood that a driver will plead guilty when there is BAC evidence in court, and therefore

will save court costs and time by doing so, it is recommended that resources be directed toward increasing the availability of BAC information to the police (e.g., mandatory blood tests).

4. The chronic drinking driver is not responding to the current sanctions imposed by the court, and thus it is recommended that research be undertaken into finding more effective sanctions and/or treatment for this group.

5. Considering the positive relationship between BAC level and the likelihood of being involved in an accident, it is recommended that the courts consider using BAC level as a major criterion in determining the severity of sentencing.

In conclusion, these data suggest that the Criminal Justice System is generally effective in dealing with the impaired drivers that are apprehended, but that the level of apprehensions is distressingly low. Of course, one approach to raising the low level of apprehension is to substantially increase the Criminal Justice System resources allocated to discouraging drinking drivers. However, the increase in resources would have to be substantial indeed as, assuming 10% of the registered vehicles to be on the road, only about 1.3% of the legally impaired drivers are apprehended and charged. Perhaps the Criminal Justice System ought to focus on the 17% of impaired drivers who have a BAC of 140+ mg./ 100 ml. and who have a higher likelihood of being involved in accidents. Again, this could be done by linking sanctions to BAC levels, and would not involve any changes in the Criminal Code. It is therefore the final recommendation of this paper that further research be conducted on the contribution of BAC level to the probability of being in an accident.

INTRODUCTION[1]

Under Section 234, 235, and 236 of the Canadian Criminal Code it is an offence to: drive a motor vehicle while one's ability is impaired by alcohol; to refuse to give an officer a sample of breath to test for the presence of alcohol; and to operate a motor vehicle with more than 80 mg./100 ml. of alcohol in one's blood. These offences carry maximum penalties of a two thousand dollar fine and/or imprisonment for six months for a first offence, imprisonment for one year for a second offence, and imprisonment for two years for a third offence. Further, a mandatory driver's license prohibition is associated with each. Nonetheless, every year in British Columbia hundreds of people are killed and thousands are injured in alcohol related motor vehicle accidents, costing the province hundreds of million of dollars a year when one calculates the cost of everything from enforcement to hospitalization to lost productivity (CounterAttack, 1980).

In 1977 the Ministry of Attorney General created the CounterAttack program in order to try to reduce the extent of this problem through strategic law enforcement, legislative change, public education programs and through research aimed at understanding the dimensions, consequences and causes of drinking and driving. In conjunction with this mandate, in the Spring of 1980, a survey of 7,380 B.C. drivers was undertaken in order to determine some of the characteristics of drivers and their behaviours and attitudes

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1 The writer expresses thanks to the following who were instrumental in producing this study: Ron Boyle, Director, CounterAttack; Dr. R. Rockerbie, Research Director, CounterAttack; and RCMP Staff Sgt. Mike Fjermstedt.

associated with drinking and driving. A part of the picture of the night-time driver that emerged was as follows:

> Regarding blood alcohol content (BAC), 6.1% of the drivers tested were legally impaired, using the 80+ mg./100 ml. criterion laid down in Section 234 of the Criminal Code (Martin, 1981), while 12% had a BAC of over 50 mg./100 ml., which is an offence under British Columbia statutes. A high BAC among drivers was found to be related to: the testing time being later in the evening as opposed to earlier in the evening, the testing day being later in the week; the drivers indicating that they were on a short trip; the drivers indicating that they had been drinking at a licensed establishment as opposed to a private residence; the driver being male; the driver being younger than 50 years of age; the vehicle driven being a truck; the vehicle containing passengers; the drivers not wearing a seat belt; the passengers not wearing a seat belt; and the drivers tending to indicate that speed or some cause other than alcohol use was the primary contributor to traffic accidents. Finally, it was noted that both very highly populated areas and very sparsely populated areas had the fewest drinking drivers, and that further research would be necessary to satisfactorily explain this finding. (Mercer, 1982, p.3)

While the above represents a reasonably accurate description of B.C. drivers, it does not speak to the efficiency of the Criminal Justice System in dealing with that portion of drivers who could be charged under Sections 234, 235 and/or 236. Certainly for CounterAttack to attempt to reduce the number of drinking drivers, not only the characteristics of drinking drivers, but also the characteristics of those drinking drivers who are apprehended and charged must be known. For example, from a comparison of these two groups, one might begin to assess the efficiency of the police in apprehending drinking drivers. Further, from an examination of guilty pleas and findings, one could get some notion of the strength

of the evidence brought to courts, while from records of previous convictions, some insight into the factors associated with recidivism could be gained.

Therefore, it is the purpose of this research to:

1) Examine the characteristics of a sample of drivers charged under Section 234, 235 and/or 236 of the Canadian Criminal Code;

2) Compare the above with the known characteristics of impaired drivers in B.C.

3) Examine the court and previous driving records of those charged drivers;

4) And, from this, assess and comment upon the efficiency of the Criminal Justice System in dealing with drinking drivers in terms of apprehension, trial and recidivism.

METHOD

The RCMP and court records of all legally impaired drivers charged in 1980 (N=1,531) in 12 RCMP detachments on Vancouver Island were examined in terms of: the manner in which, time of day and day of week the drivers were apprehended; the drivers' Blood Alcohol Content, age, sex, marital status, residence location, source of trip and previous driving record; the type and year of the vehicle driven; and the charge(s) laid and the outcome of same (see the Data Collection Sheet, Appendix A for more detail). The RCMP detachments and number of drivers associated with each were: Chemainus (28), Colwood (250), Duncan (171), Ganges (32), Ladysmith (100), Lake Cowichan (62), Nanaimo (608), Shawnigan Lake (40), Sidney (200), and Sooke (40).

In terms of analyses, while a large number of comparisons and tables were produced, for the most part only those relationships that one would not expect to have occurred purely by chance* are spoken to.

Finally, for the comparisons of the current sample with 1981 norms developed for impaired drivers in B.C. (Mercer, 1982), the two samples were matched in terms of time of day and day of week.

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* In order to determine how seriously to take a finding, statisticians determine the result that one would expect to find simply by chance, and then compare that result with the actual result found in the study. The larger the difference between the two, the more likely that one should take the finding seriously. For example, one would expect a coin tossed a number of times to come up heads about 50% of the time and tails the other 50% of the time. Should this not occur, then one might conclude that the coin was not fair. Similarly, if there were no differences among age groups with regard to BAC, then one would expect each group to have about the same BAC, and that BAC would also be the average BAC. On the other hand, the further one group was from that average, the more likely that age does make a difference with regard to BAC. The statistical tests done in this paper all use the general notion of calculating what one would expect by chance if there was no relationship between variables, and then compare that with what was actually found. See, for example, Blalock, 1972, p. 119-142.

RESULTS

CIRCUMSTANCES OF APPREHENSION

Day and Time: As can be seen from Table 1 (page 11), the majority of drinking drivers were apprehended in the evening and on the weekend, while Mondays and early mornings till noon were the periods of fewest apprehensions. For example, 26.6% of the sample were apprehended on Saturday, while only 5.8% were apprehended Monday. Further, 49.1% were apprehended between 2200-0159 (10:00 p.m. - 1:59 a.m.) but only 1.6% were apprehended between 0600-0959 (6:00 a.m. - 9:59 a.m.).

Method of Apprehension: Considering ways that drivers were stopped and charged, 53.2% were stopped on a "routine check", probably because they were exhibiting some driving behaviour that brought them to the attention of the officer, 22.8% were in accidents, 5.0% were stopped and charged at roadblocks, 10.2% were reported by the public, and 8.8% were stopped on some other charge (e.g. faulty lights).

DRIVER CHARACTERISTICS

Blood Alcohol Content: The average BAC for the 1,531 known cases was 173 mg./100 ml., with 31% of the drivers registering between 80-140, 35% between 141-180, and the remaining 34% above 180 mg./100 ml.

Age and Sex: The majority of impaired drivers apprehended and charged were male (89.7%). The average age of the male drivers was 33 years while, the average age of the female drivers was 35 years. There were no important differences between the proportion of males in each age category and the proportion of females in each age category. The overall age breakdown for the sample is as follows:

TABLE 1

Number of Apprehensions - Day by Time

Day	Time												
	2400-0159	0200-0359	0400-0559	0600-0759	0800-0959	1000-1159	1200-1359	1400-1559	1600-1759	1800-1959	2000-2159	2200-2359	TOTAL%
Monday	9	5	1	0	2	5	2	2	4	8	21	29	5.8
Tuesday	46	16	1	0	0	0	5	5	10	16	18	28	9.6
Wednesday	42	14	3	1	0	4	1	5	12	11	15	29	9.0
Thursday	62	23	1	0	2	3	2	7	11	8	28	34	11.9
Friday	77	43	3	2	4	3	5	9	9	23	33	72	18.7
Saturday	128	83	14	3	3	5	5	13	17	27	42	63	26.6
Sunday	111	74	19	5	3	2	6	9	16	13	7	15	18.5
TOTAL %	31.3	17.0	2.8	0.7	0.9	1.5	1.7	3.3	5.2	7.0	10.8	17.8	100% N=1517

15-19 years = 11.4%; 20-24 years = 22.4%; 30-39 years = 23.0%; 40-49 years = 13.0%; 50-59 years = 10.2%; 60-69 years = 3.7% and 70+ years = 1%.

Marital Status: Of the 1,312 known cases, 49.4% of the drivers were single, 35.7% were married, 4.4% were divorced, 4.6% were separated, 1.2% were widowed, and 4.6% were living common law.

Source of Trip: While it is not known where 42% of the drivers were coming from, of those that the source of their trip is known, the majority (71.3%) indicated that they were coming from a bar; 11.4% from home; 10.1% from friends' homes; 2.7% from a party; 2.5% from recreation; and the remaining 2.0% were coming from work. Further, of the 1,521 known cases, 63% of the drivers were apprehended within the RCMP detachment area that they live in.

Previous Driving Record: As can be drawn from Table 2 (page 13), 24% of the drivers had at least one previous impaired driving conviction, 14% had at least one previous criminal driving conviction excluding driving while impaired convictions, and 19% had had their licence suspended one or more times. The average number of non-criminal driving violations for the sample was 1.6.

VEHICLE CHARACTERISTICS

Type: The majority of the drivers apprehended were driving cars (70.1%), followed by pickup trucks (21.4%), vans (6.0%), motorcycles (1.4%), trucks (1.1%) and motorhomes (0.1%). In 32 cases the type of vehicles was not recorded.

Age: Of the 1,429 cases known, 31.7% of the drivers were driving vehicles that were built in 1969 or earlier, 34.3% between 1970-1974,

TABLE 2

Drivers' Previous Driving Record When Apprehended

Number of Charges	Non-Criminal Violations	Criminal Driving Convictions including D.W.I.'s	Driving While Impaired Convictions	Licence Suspended
0	39.0	62.3	76.0	80.9
1	20.6	23.4	18.3	15.7
2	14.5	8.7	4.7	2.7
3	9.2	3.3	0.7	0.5
4	6.2	1.6	0.2	0.2
5	2.9	0.5	0.1	
6	2.4	0.2		
7	2.6			
8	1.7			
9	1.2			
10	0.7			
TOTAL %	100%	100%	100%	100% N=1203

and the remainder (34.0%) were built between 1975-1981.

SAMPLE VS. KNOWN CHARACTERISTICS OF LEGALLY IMPAIRED DRIVERS IN B.C.

As the current sample of apprehended and charged drivers was drawn from a limited geographical area, it cannot necessarily be said to accurately represent the characteristics of apprehended and charged drivers in other areas of the province. On the other hand, there is no compelling reason to assume that the sample differs radically from what one might expect had it been drawn from other areas. Assuming that police, driver, and court behaviours and characteristics in the sample are roughly similar to same in other areas, one can then compare the sample characteristics to known characteristics of legally impaired drivers in the province in order to gain some notion of the accuracy of the police in apprehending a representative group of the legally impaired drivers on the road. In order to make this comparison, characteristics of the legally impaired population were drawn from data collected for The Characteristics of Night Time Drivers in British Columbia (Mercer, 1982).

As can be seen from Tables 3 through 9 (pages 15 through 17), the sample differed very little from the known characteristics of those drivers in the province with a BAC of 80 mg./100ml. or more in terms of: type of vehicle driven, day of week and time of day driving, gender, age, and place where they had been drinking. The only point of comparison upon which the sample differed substantially from the known characteristics of legally impaired drivers was in terms of BAC, with the sample having a substantially higher level than one would find in the general population of impaired drivers.

TABLE 3

Blood Alcohol Content: B.C. Impaired Driver Norm vs. Apprehended Drivers

	Blood Alcohol Content			
	80-140 mg./100 ml.	141-180 mg./100 ml.	181+ mg./ 100 ml.	TOTAL%
B.C. Norm	83	16	1	100%
Apprehended Drivers	33	36	31	100%

TABLE 4

Type of Vehicle Driven: B.C. Impaired Driver Norm vs. Apprehended Drivers

	Type of Vehicle		
	Driving Car	Driving Other Vehicle	TOTAL%
B.C. Norm	75	25	100%
Apprehended Drivers	70	30	100%

TABLE 5

Day of Week: B.C. Impaired Driver Norms vs. Apprehended Drivers

	Day of Week				
	Wed.	Thurs.	Fri.	Sat.	TOTAL%
B.C. Norm	18	21	22	39	100%
Apprehended Drivers	14	20	34	32	100%

TABLE 6

Time of Day: B.C. Impaired Drivers Norms vs. Apprehended Drivers

	Times for B.C. Norm Sample (Hours)				
	2100-2229	2230-2359	2400-0129	0130-0300	TOTAL%
B.C. Norm	15	29	28	28	100%
Apprehended Drivers	13	21	42	24	100%
	2000-2200	2201-2400	2400-0200	0201-0400	TOTAL%
	Times for Apprehended Drivers (Hours)				

TABLE 7

Sex: B.C. Impaired Drivers Norm vs. Apprehended Drivers

	Sex		
	Male	Female	TOTAL%
B.C. Norm	85	15	100
Apprehended Drivers	90	10	100

TABLE 8

Age: B.C. Impaired Drivers Norm vs. Apprehended Drivers

	Age in Years						
	16-19	20-24	25-39	40-49	50-59	60+	TOTAL%
B.C. Norm	15	22	41	15	5	2	100%
Apprehended Drivers	12	25	37	11	9	3	100%

TABLE 9

Drinking Location: B.C. Impaired Drivers Norms vs. Apprehended Drivers

	Drinking Location		
	Licensed Establishment	Other	TOTAL%
B.C. Norm	51	49	100%
Apprehended Drivers	44	56	100%

To elaborate, only 1% of the overall population of impaired drivers would be expected to have a BAC of over 180 mg./100 ml., while in the sample of apprehended and charged drivers, fully 31% registered at over 180 (see Table 3, page 15).

CHARGES AND OUTCOMES

Charges: Charges were laid under Sections 234, 235 and 236 of the Canadian Criminal Code. Section 234 deals with driving while one's "ability to drive a motor vehicle is impaired by alcohol or a drug" (Martin, 1980 p.220). Section 235 indicates that the officer may demand a breath sample if he "believes that a person is committing, or at any time within the preceeding two hours has committed, an offence under Section 234 or 236." (Greenspan, 1980, page 224). Section 236 deals with driving with more than 80 mg. of alcohol per 100 ml. of blood (i.e. being legally impaired). See Appendix B, page 47.

From Table 10 (page 19), one can see that the majority of drivers (75.2%) were charged under both Section 234 (driving while impaired) and Section 236 (BAC 80+ mg./100 ml.). Thirteen percent of the drivers were charged under Sections 234 and 235 (refusal to give breath sample), while those charged under Section 234 only or 236 only comprised 1.4% and 0.8% respectively. The remaining 9.6% were charged under Section 234 and some other Criminal Code Section excluding Sections 235 and 236.

Outcome of Charges: Regarding charge outcomes, it should be remembered that most drivers (88.2%) were charged with more

TABLE 10

Persons Charged by Criminal Code Section(s)

Code Section	N	%
234 and 236	1151	75.2
234 and 235	199	13.0
234 only	22	1.4
236 only	13	0.8
234, 235 and/or 236 and other	147	9.6
TOTAL	1531	100%

TABLE 11

% of Persons and % Charges by Outcomes: Summary

Outcomes	% Persons (N = 1531)	% Charges (N=2882)
Stay of Proceedings	67.2	37.2
Guilty Plea	72.6	42.9
Found Guilty	6.1	3.7
Dismissed	8.6	6.3
Unknown	9.6	9.9
TOTAL	N/A	100%

than one offence whose outcome is known, and thus it is not absurd when Table 11 (page 19) reports that 67.2% of the persons had a stay of proceedings, 72.6% pleaded guilty,6.1% were found guilty, 8.6% dismissed and 9.6% had unknown outcomes, because these figures refer to the outcome of one or more charges. Perhaps one way of looking at these figures is, of all of those charged with one or more offences of which the outcome is known, only 180 or 13.0% did not plead guilty or found guilty of one or more charges. To put it another way, 87% of those charged with one or more offences were found or pleaded guilty to one or more offences.

Turning to the figures in Table 11 pertaining to the disposition of charges, the sum of this breakdown of charge outcomes will be 100%, as a charge can only have one disposition. Thus, 37.2% of the charges received a stay of proceedings, 42.9% had an outcome of a guilty plea, 3.7% found guilty, 6.3% dismissed and 9.9% had unknown outcomes.

Table 12 (page 21) illustrates a breakdown of outcomes of charges in terms of persons charged by type of charge. Also the table notes charge outcomes in terms of number of charges by type of charge. Considering the breakdown of persons charged under both Section 234 and Section 236, 85.2% received a stay of proceedings on one or more charges, 89.7% pleaded guilty to one or more charges, 6.4% were found guilty of one or more charges and 9.9% were dismissed. In terms of the disposition of the charges, 44.4% had a stay of proceedings, 49.5% were disposed of by a guilty plea, 3.3%

TABLE 12

Charge Outcomes by Charges Laid

Outcomes	Persons Charged under Criminal Code Sections*											
	Sections 234 and 236					Sections 234 and 235					Section 234 only	Section 236 only
	Section 234	Section 236	Sect. 234 & 236	TOTAL% Persons (N=1151)	TOTAL% Charges (N=2304)	Section 234	Section 235	Sect. 234 & 235	TOTAL% Persons (N=199)	TOTAL% Charges (N=398)	TOTAL% Persons=Charges (N=22)	TOTAL% Persons=Charges (N=13)
% Stay of Proceedings	29.9	51.6	3.7	85.2	44.4	28.6	29.1	2.0	59.8	30.9	18.2	0.0
% Guilty Plea	51.0	29.3	9.3	89.7	49.5	30.6	27.1	12.6	70.3	41.5	45.4	61.5
% Found Guilty	2.5	3.6	0.3	6.4	3.3	2.0	4.0	5.0	11.1	8.0	13.6	7.8
% Dismissed	4.2	1.8	3.8	9.9	6.7	4.5	2.0	5.0	11.5	8.3	9.1	7.8
% Unknown	0.0	0.0	0.0	0.0	4.1	0.0	0.0	0.0	0.0	11.3	13.6	23.1
TOTAL CHARGES					100%					100%	100%	100%

* Data on those charged under Section 234, 235, and/or 236 and other sections was dropped due to low reliability (N=147)

were dispersed by the person charged being found guilty, 6.7% were dismissed, and 4.1% had an unknown disposition.

Again, considering the persons charged under both Section 234 and 236, from Table 12 one can see that 51.6% received a stay of proceedings for the charge under Section 236, while 51.0% pleaded guilty to the charge under Section 234. Only 9.3% pleaded guilty under both sections. Thus, for these drivers, if charged under both Section 234 and 236, the driver is likely to have a stay of proceedings under Section 234. Finally, a total of 136 persons (11.8% of those charged) charged under both sections had either a stay of proceedings or had charges dismissed under both sections.

Turning to those charged under both Section 234 and 235, from Table 12 it can be seen that 30.6% pleaded guilty under Section 234, 27.1% under Section 235 and 12.6% under both. As with those persons charged under both Section 234 and 236, those charged under both Section 234 and 235 tend to have one of the two charges given a stay of proceedings, with the driver pleading guilty to the other: 59.8% of the persons received a stay of proceedings on one or more charges and 70.% pleaded guilty to one or more charges. Only 31 persons or 15.6% of those charged under both 234 and 235 neither pleaded nor were found guilty.

The figures found in Table 12 for those charged under Section 234 only and for those charged under Section 236 only are more straightforward, as the number of charges is the same as the number of persons. For those charged under Section 234 only, 59.0% either pleaded or were guilty, while 27.3% were either dismissed or had a

stay of proceedings. For those charged under Section 236 only, 69.3% either pleaded or were found guilty, while 7.8% were dismissed. No charges received a stay of proceedings.

Unfortunately, the recording of the outcome of charges under Section 234, 235 and/or 236 and other Sections was sufficiently unreliable as to make the category impossible to examine in any detail.

Finally, only 169 or 11% of those apprehended and charged actually went to trial, and of those 114 or 67.5 were found guilty of one or more offences.

PREVIOUS DRIVING WHILE IMPAIRED CHARGES AND OTHER VARIABLES

In an attempt to assess the factors relating to recidivism, the total number of previous charges under Sections 234 and 236 were examined in terms of a number of other variables. It was found that there was no particular relationship between this variable and the following: day of apprehension; time of day of apprehension; drivers' age; drivers' marital status; the source of the trip; the number of the drivers' previous non-criminal driving violations; the age of the vehicle driven; the type of vehicle driven; and whether or not the driver was found guilty of the current charges.

Previous Driving Record and BAC: In order to determine the characteristics of those apprehended drivers with extremely high BAC readings, BAC was examined after the drivers had been grouped into three roughly equal BAC catagories: 80-140 mg./100 ml. (31%); 141-180 mg./100 ml. (35%); and 181+ mg./100 ml. (34%).

From an examination of the apprehended drivers' previous non-criminal driving violations shown in Table 13 (page 24), it can be seen that those in the 181+ BAC group had fewer previous

TABLE 13

Blood Alcohol Content and Previous Non-Criminal Violations

# Previous Violations	BAC			
	80 - 140 mg./100 ml.	141 - 180 mg./100 ml.	181+ mg./100 ml.	TOTAL%
0	30.0	28.5	41.5	100% N=400
1	32.4	32.4	35.1	100% N=185
2	27.3	46.7	26.0	100% N=150
3	41.5	35.1	23.4	100% N=94
4+	35.0	43.4	21.7	100% N=143

non-criminal driving convictions than did those in either the 141-180 mg./100 ml. BAC group or the 80-140 mg./100 ml. BAC group. For example, 41.5% in the 181+ group had no previous non-criminal driving convictions, while the figures for the 80-140 and 141-180 groups are 30.0% and 28.5% respectively. (Chi-square 37.8, d.f. = 8 p.<.001)

On the other hand, from Tables 14 and 15 (page 26), it can be seen that those apprehended drivers with a high BAC were more likely to have had previous Driving While Impaired Charges and previous license suspensions than were those with a lower BAC. To illustrate, 21.7% of those in the 80-140 mg./100 ml. BAC group had two or more previous DWI charges, while 41.3% of those in the 141-180 group and 37.0% of those in the 181+ group had had two or more D.W.I. charges. (Chi-square = 33.7, d.f.= 4 p.<.001).

Expressing this relationship somewhat differently, 30.5% of those in the highest BAC category had previous DWI charges, while the figures for the 141-180 mg./100 ml. and 80-140 mg./100 ml. were 21.8% and 12.4% respectively. Further, only 18.6% of those in the 80-140 group had had their license suspended, while 40.7% in the 141-180 and a similar 40.7% in the 181+ groups had had previous license suspensions. (Chi-square 17.3, d.f. = 2 p.<001).

Previous Driving Record and Sex: The number of the drivers' previous Driving While Impaired charges related to the drivers' sex, with males being more likely than females to have had previous charges: 74.5% of the males and 89.4% of the females had no previous charges (Chi-square 13.0, d.f. = 2, p.<.001).

BLOOD ALCOHOL CONTENT AND OTHER VARIABLES

When drivers' BAC level was examined using the three BAC levels noted above, it was found that there were no statistically

TABLE 14

Blood Alcohol Content and Previous Driving While Impaired Convictions

# Previous DWI	BAC			
	80 - 140 mg./100 ml.	141 - 180 mg./100 ml.	181+ mg./100 ml.	TOTAL%
0	36.0	34.8	29.2	100% N=770
1	17.4	33.5	49.1	100% N=167
2+	21.7	41.3	37.0	100% N=46

TABLE 15

Blood Alcohol Content and Previous License Suspensions

# License Suspensions	BAC			
	80 - 140 mg./100 ml.	141 - 180 mg./100 ml.	181+ mg./100 ml.	TOTAL%
0	35.0	33.7	31.3	100% N=815
1+	18.6	40.7	40.7	100% N=167

significant differences among the groups when they were compared in terms of the day of week apprehended, the sex of the driver, the source of the trip, the type and age of the vehicle driven, and the type of charges laid. Thus, the overall characteristics of the sample described in the previous RESULTS sections apply equally for each BAC level on these variables. However, the driver's BAC level did relate to the other variables, as noted below.

BAC and Time Apprehended: From Table 16 (page 28) it can be seen that there is a higher proportion of the 181+ mg./100 ml. drivers in the 1000-1559 hours category and in the 1600-1959 hours category than one would expect, and a lower proportion of this group in the 2000-0359 hours category than one would expect. For example, 52.6% of the drivers apprehended in the 1000-1559 hour category had a BAC of over 180 mg./100 ml., while in the 2000-0359 hour category only 29.1% of the apprehended drivers were in this BAC group. That is, while there may be fewer impaired drivers apprehended during daylight hours, those that are apprehended are more likely to have a very high BAC than are those who are apprehended during the more traditional after dark drinking times. (Chi-square = 38.5, d.f. = 6 $p.<.001$)

BAC and Method of Apprehension: As illustrated by Table 17 (page 28),the drivers who were reported by the public had the highest proportion of those with a BAC of 181+ mg./100 ml. (45.0%), while those in the "stopped for other offences" category had the lowest (18.1%). (Chi-square 29.4, d.f. = 8, $p.< 001.$)

TABLE 16

Blood Alcohol Content and Time of Day Apprehended

Time	BAC			
	80 - 140 mg./100 ml.	141 - 180 mg./100 ml.	181+ mg./100 ml.	TOTAL%
0400 - 0959 hrs.	25.9	40.7	33.3	100% N=54
1000 - 1559 hrs.	16.7	30.8	52.6	100% N=78
1600 - 1959 hrs.	23.8	31.7	44.5	100% N=281
2000 - 0359 hrs.	34.4	36.6	29.1	100% N=829

TABLE 17

Blood Alcohol Content and Method of Apprehension

Apprehension Method	BAC			
	80 - 140 mg./100 ml.	141 - 180 mg./100 ml.	181+ mg./100 ml.	TOTAL%
Routine Check	28.6	35.5	35.8	100% N=653
Accident	34.9	30.9	34.2	100% N=275
Roadblock	38.5	36.9	24.6	100% N=65
Reported by Public	20.9	34.1	45.0	100% N=129
Other Offence	37.1	44.8	18.1	100% N=116

BAC and Age: The 181+ mg./100 ml. group is overrepresented in the 41-50 year (50.3%) and 51-60 year old (49.2%) categories and underrepresented in the 18 or less (8.4%), 19-20 (16.4%) and 21-25 year (23.3%) old categories. See Table 18, page 30 for more details. (Chi-square = 124.3, d.f.=14, p.< 001).

BAC and Marital Status: The highest proportion of the separated, divorced, or widowed drivers were in the 181+ BAC category (42.9%), followed by persons who were married or living common law (38.7%), followed by single persons (26.2%). See Table 19, page 31. (Chi-square=26.1, d.f.=4, p.<.001).

BAC and Previous Driving Record: See page 23.

BAC and Accident Involvement: See Below

ACCIDENT INVOLVEMENT

When the group that were apprehended and charged in conjunction with having been in an accident were compared with the other apprehended and charged drivers, it was found that the two groups did not differ in any noteworthy fashion, except with regard to the variables that can be attributed to police enforcement and roadblock patterns: time, and day, of apprehension and source of trip. That is, those not in accidents were more likely to be apprehended late in the day, late in the week, and coming from a pub - all of which probably has to do with the effect of the placement of roadblock and strength of policing affecting these characteristics of the sample not involved in accidents. More specifically, these two groups did not differ in terms of drivers' sex, age, marital status, BAC, or previous history of violations and the age or type of vehicle driven.

TABLE 18

Blood Alcohol Content and Age

Age	BAC			
	80 - 140 mg./100 ml.	141 - 180 mg./100 ml.	181+ mg./100 ml.	TOTAL%
18 or less	56.8	34.7	8.4	100% N=95
19 - 20	44.5	39.1	16.4	100% N=128
21 - 25	36.7	40.0	23.3	100% N=275
26 - 30	24.3	35.6	40.1	100% N=177
31 - 40	22.3	34.7	43.0	100% N=251
41 - 50	18.7	31.0	50.3	100% N=155
51 - 60	20.8	30.0	49.2	100% N=120
61+	31.8	27.3	40.9	100% N=44

TABLE 19

Blood Alcohol Content and Marital Status

Martial Status	BAC			
	80 - 140 mg./100 ml.	141 - 180 mg./100 ml.	181+ mg./100 ml.	TOTAL%
Single	36.0	37.8	26.2	100% N=542
Married or Common Law	28.1	33.2	38.7	100% N=437
Separated, Divorced, Widow	21.0	36.1	42.9	100% N=119

On the other hand, those drivers who have a very high BAC are much more likely to be involved in accidents than are those who have a lower BAC, even though those with a lower BAC are also legally impaired. Returning to Table 3, page 15, if there was no relationship between BAC level and accidents, then one would expect only about 1.0% of the impaired drivers to be involved in accidents, as that is the proportion of impaired drivers in the population who are in the high (180+ mg./100 ml.) BAC category. However, about 31.0% of those in accidents are in this very high BAC cateogry.

DISCUSSION

Initially, it must be emphasized that this sample is limited to drivers apprehended and charged in the 12 RCMP detachments on Vancouver Island, noted in the METHOD section. On the other hand, there is no compelling reason to assume that driver, police and court characteristics are substantially different in those 12 detachments from the other detachments across the province. That is, while the absolute level of variables may well differ from place to place, one might feel confident that the relationships among the variables can be generalized. For example, different areas may have different proportions of drinking drivers, but considering the strength of the relationship between sex and drivers' BAC, one can be confident that there will be a higher proportion of male than female drinking drivers apprehended. Thus, the general conclusions drawn should apply throughout the province, while specific values, proportions, percentages and the like will probably vary from place to place.

DRIVER AND VEHICLE CHARACTERISTICS

The apprehended and charged drivers, like the legally impaired driver population as a whole, tend to be male (89.7%), under 50 years of age (85.1%), coming from a bar (71.3%), and are driving a car (70.1%). Also, like the legally impaired population, they are found most frequently later in the week (26.6% on Saturdays and only 5.8% on Mondays) and later in the evening (49.1% between 2200-0159 hours and only 1.6% between 0600-0959 hours). Unlike the legally impaired population they had a much higher BAC count. This latter point is discussed below.

Beyond the characteristics that can be compared to the known B.C. impaired driver norms, the apprehended drivers are most likely to be single (49.4%), have had more than one previous non-criminal driving violation (61%), and be driving a vehicle over 7 years old (66%). Regarding this latter point, it may be speculated that the police are more likely to stop older vehicles and thus the high proportion of same in the sample. Finally, about a quarter of those apprehended had a known previous conviction under Sections 234, 235 and/or 236 of the Canadian Criminal Code.

APPREHENSION

From the comparison of the characteristics of this sample with the general characteristics of impaired drivers in British Columbia, it appears that the police are doing a good job in terms of apprehending and charging a representative cross section of impaired drivers. That is, the drivers apprehended and charged are generally similar to the legally impaired drivers on the road in terms of type of vehicle driven, day of week and time of day driving, gender, age, and place where they had been drinking. In short, no drinking driver group is being picked out for special attention and no group is being ignored, with one exception: those drivers with a very high BAC are overrepresented in the apprehended and charged group. Regarding this latter point, only about 1% of the legally impaired drivers on the road have a BAC of 181+ mg./100 ml., while 31% of those apprehended have a BAC over 180 mg./100 ml. Further, only 16% of the legally impaired drivers on the road have a BAC of 141-180 mg./100 ml., while 36% of those apprehended have a BAC in this range.

The implications of such a high proportion of drivers with a very high BAC being in the sample of apprehended drivers and not in the general population of impaired drivers are several. On the positive side, an impaired driver's chance of being apprehended is higher the drunker he/she is. Probably impaired drivers with a very high BAC exhibit erratic driving behaviours and thus can be more easily noticed than those with a lower BAC. This notion is supported by the finding that 35.8% of those apprehended and charged in a "routine" police check and 45.0% of those apprehended and charged after being reported to the police by the public had a BAC of 181+ mg./100 ml., while only 24.6% in this BAC category were apprehended by a roadblock. The reasoning here is that those stopped individually and/or reported by the public would be likely to be displaying odd driving behaviours, while roadblocks would be expected to sample drivers on a more random basis. On the other hand, a negative implication of a high proportion of those with a very high BAC being in the sample of apprehended drivers is that those legally impaired drivers with a relatively low BAC are not being apprehended in sufficient numbers. As noted above, roadblocks are most effective in apprehending the impaired driver with a lower BAC, and from this one would recommend an increased use of same, especially late in the week and late in the day when there is a higher proportion of impaired drivers on the road.

The seriousness of the underrepresentation of the legally impaired but low BAC group can be illustrated by the fact that, if one assumes that only 10% of the registered vehicles are on the road

on an average Wednesday through Saturday evening, then those impaired drivers in the highest BAC category have about a one in 2.5 chance of being caught, while those who are legally impaired but are in the lowest BAC category have about a one in 192 or 77 times smaller chance of being caught. Again, an increase in random checks of drivers, possibly with mandatory ALERT - type breath tests would seem a profitable solution to this problem.[2]

Finally, from a more optimistic perspective, it is noteworthy that fully 10.2% of the apprehended drivers were reported to the police by the public. It is recommended that both the public and the police should be encouraged to cooperate in this manner through media campaigns, and in any other fashion that would increase public response and the police's ability to deal effectively with this response.

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[2] The reasoning behind these figures is as follows: a) From the provincial night-time driver survey data (Mercer, 1982), one can determine that, on an average night Wednesday through Saturday, about 5.6% of the drivers will have a BAC of 80-140 mg./100 ml., 0.98% of the drivers will have a BAC of between 141-180 mg./100 ml., and 0.06% of the drivers will have a BAC of 181+ mg./100 ml. b) In 1980, there were 60,025 licenced vehicles in the sample area, excluding Colwood and Shawnigan Lake (data on vehicles registered was not available for these two areas). c) In 1980, for the sample area, excluding Colwood and Shawnigan Lake, there was a total of 995 drivers apprehended and charged during the times and days that could be compared to the provincial survey (i.e., Wednesday through Saturday, 2000-0400 hours), or an average of 4.8 drivers per day. d) If one assumes that only 10% of the vehicles are on the road on an average Wednesday through Saturday, then, using the provincial norms, one would expect to find about 303.8 drivers in the 80-140 mg./100 ml. group, 58.9 in the 141-180 group, and 3.7 in the 181+ group. e) Dividing the average of 4.8 apprehended drivers per day into the apprehended driver BAC proportions and taking that number as a percentage of the number of impaired drivers one would expect to find on the road, one finds that 0.05% of the 80-140 mg./100 ml. BAC group is apprehended, 2.9% of the 141-180 mg./100 ml. BAC group is apprehended, and 40.0% of the 181+ mg./100 ml. BAC group is apprehended. If one assumes more than 10% of the registered vehicles to be on the road on an average night, the proportions get smaller.

CHARGES AND OUTCOMES

The evidence presented to the courts by the police and Crown seems to be extremely effective, as fully 87% of those charged with one or more offence under Section 234, 235 and/or 236 were found or pleaded guilty on one or more charges (the provincial figures for Driving While Impaired guilty dispositions in 1980 was 84%). The general pattern: was to be charged under both Sections 234 and 236 (75.2%) or under both Sections 234 and 235 (13.0%); to be given a stay of proceedings on one charge; and to be found or plead guilty on the second charge. This is in line with the Keinapple vs the Queen (1974) decision which essentially states that one cannot have multiple convictions on the same offence. Very few drivers were charged under Section 234 only (1.4%) or under Section 236 only (0.8%). Finally, only 11% of the sample actually went to trial, and of these, 67.5% were found guilty on one or more counts.

Those charged under both Sections 234 and 236 show a greater tendency (90%) to plead guilty (and thus save court time and costs) than do those charged under both Sections 234 and 235 (70%). It follows that the evidence of a blood alcohol reading (BAC) has an important psychological impact on the accused, and therefore it is recommended that such evidence be obtained wherever possible. It is very possible that the cost of BAC testing would be more than balanced in the saving in court costs.

RECIDIVISM

Comparing the 24% of the apprehended drivers who had had previous convictions under Sections 234, 235 and 236 with those who had no previous Driving While Impaired (DWI) charges, one finds that

the recidivists were likely to be male and were likely to have an unusually high BAC, with 31% of those in the highest BAC group having had previous DWI convictions and only 12% of those in the lowest BAC group having had previous DWI convictions. From this, one suspects that these recidivists are consistently heavy drinkers who often drive while impaired. That is, if the chances are slight of being caught when driving while impaired, they are extremely slight of being caught twice or more, and therefore it is likely that the recidivists frequently drive while impaired.

In order to gain insight into this recidivist group, the data were examined in terms of the relationship between a high BAC and other variables, even though the other variables did not relate directly to having had previous DWI convictions. The rationale here is that there can be patterns of influence such that A affects B and B affects C, but A and C are not directly related except through B. (see Blalock, 1972, p.453).

Regarding non-criminal driving convictions, the high BAC group does not appear to consist of a particularly bad set of drivers, as when they are compared to the lower BAC groups they have generally fewer non-criminal driving convictions. However, they do tend to be overrepresented in the 41-60 year old group and in the separated, divorced, and widowed group. Further, they are overrepresented in the group of drivers apprehended during the daylight hours.

From the above, one derives a picture of a male, middle-aged chronic drinker with an unstable or non-existent family life who is not responding to the current sanctions imposed by the court. This person drinks and drives and will continue to do so until he is unable to do the one or the other. Being in the very high BAC group he is amongst the most dangerous drinking driver on the road, and he is the one least likely to change his habits, as evidenced by his recidivist status. Finally, inasmuch as the current court imposed sanctions are not likely to affect the chronic drinking driver, it is recommended that resources be applied to determine and then to implement sanctions and/or treatments that will reduce the recidivism of the chronic drinking driver.

ACCIDENT INVOLVEMENT

From the comparison of those apprehended drivers involved in accidents with those apprehended drivers not involved in accidents, it is noteworthy that there were no differences between the two groups, at least in terms of the variables examined. It would appear that factors other than age, sex, marital status and so on are critical in predicting those who will be involved in accidents. On the other hand, comparing the BAC of those in accidents with the BAC norms for the province as a whole, one can see that those legally impaired drivers in the higher BAC categories have a much better chance of being in accidents than those in the lowest legally impaired BAC cateogory.

To elaborate on this last point, using similar logic to that described in footnote 2 (page 36), and assuming no more than 10% of

the vehicles on the road, it can be calculated that there are an average of 0.683 accidents per night (Wednesday through Saturday) and that 0.88% of the 80-140 mg./100 ml. BAC, 0.35% of the 141-180 mg./100 ml. BAC group, and 5.59% of the 181+ mg./100 ml. group are involved in accidents. To put this another way, those in the low but legally impaired BAC group have about a one in one thousand one hundred and thirty chance of being in an accident, while those in the highest BAC group have about a one in eighteen or 63 times greater chance of being in an accident.

Considering the above, it is recommended that research be directed toward further identifying the characteristics of the most dangerous drivers - those involved in accidents - and that the Criminal Justice System focus resources on apprehending and discouraging those driving with a high BAC. In light of the relationship between a very high BAC and accidents, perhaps the courts could use the level of BAC as a gauge for the severity of the sanctions imposed on the drivers.

RECOMMEDATIONS AND CONCLUDING REMARKS

1. From the above it can be said that the police are doing a good job of apprehending a representative cross-section of drinking drivers, but that the proportion of drinking drivers apprehended is quite small, especially among those legally impaired drivers with a relatively low BAC. It is therefore recommended that more use be made of random spot checks and roadblocks, possibly with mandatory ALERT type BAC testing. Additionally, these would be best employed late in the day and late in the week.

2. The public is acting in a generally responsible fashion in reporting drinking drivers, as over 10% of those charged were reported by the public. Therefore it is recommended that resources be directed to further encourage this behaviour on the part of the public, and to make more effective the ability of the police to respond to such reports.

3. Inasmuch as there is a higher likelihood that a driver will plead guilty when there is BAC evidence in court, and therefore will save court costs and time by doing so, it is recommended that resources be directed toward increasing the availability of BAC information to the police (e.g., mandatory blood tests).

4. The chronic drinking driver is not responding to the current sanctions imposed by the court, and thus it is recommended that research be undertaken into finding more effective sanctions and/or treatment for this group.

5. Considering the positive relationship between BAC level and the likelihood of being involved in an accident, it is recommended that the courts consider using BAC level as a major criterion in determining the severity of sentencing.

In conclusion, these data suggest that the Criminal Justice System is generally effective in dealing with the impaired drivers that are apprehended, but that the level of apprehensions is distressing low. Of course, one approach to raising the low level of apprehension is to substantially increase the Criminal Justice System resources allocated to discouraging drinking drivers. However, the increase in resources would have to be substantial indeed as,

assuming 10% of the registered vehicles to be on the road, only about 1.3% of the legally impaired drivers are apprehended and charged. If one were to assume a higher proportion of vehicles to be on the road, the proportion of impaired drivers apprehended is even smaller.

On the other hand, from the data collected for normative comparisons (Mercer, 1982), approximately 26% of the drivers on the road have some measurable BAC, and it does not seem unreasonable to assume that the majority of persons who drink and drive have, at some point, driven in a legally impaired state. It follows that a substantial proportion of the population is being defined as criminal, and a law that defines a high proportion of the population as criminal does not encourage the citizen to regard either the law or the state very seriously. Certainly, there is a strong relationship between being in an accident and having a very high BAC, but at lower BAC levels the chances of being in an accident are less than one in a thousand, even though the person is legally impaired. Perhaps the Criminal Justice System ought to focus on the 17% of impaired drivers who have a BAC of 140+ mg./100 ml. and who have a higher likelihood of being involved in accidents. Again, this could be done by linking sanctions to BAC levels, and would not involve any changes in the Criminal Code.

The central question stemming from the above argument concerns the discovery of the BAC level that <u>significantly</u> increases one's chances of being in an accident. From this, sanctions could be applied that on the one hand would not overburden the resources of

the Criminal Justice System, and on the other hand would remove the dangerous drinking driver from the road. It is therefore the final recommendation of this paper that further research be conducted on the contribution of BAC level to the probability of being in an accident.

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APPENDIX A

Data Collection Sheet

RCMP GRC

IMPAIRED DRIVING STATISTICAL SURVEY

1. DETACHMENT LOCATION ☐☐

Chemainus 01	Nanaimo 08
Colwood 02	Pender Island 09
Duncan 03	Shawnigan Lake 10
Gabriola Island 04	Sidney 11
Ganges 05	Sooke 12
Ladysmith 06	Unknown UN
Lake Cowichan 07	

2. POLICE FILE NUMBER

U N K N O W N

3. COURT FILE NUMBER

U N K N O W N

4 DRIVERS LICENSE NUMBER

U N K N O W N

5. DATE OF BIRTH

U N K N O W N

6. SEX ☐

Male 1	Unknown 3
Female 2	

7 AGE GROUP ☐☐

15 and under 01	31 to 40 07
16 02	41 to 50 08
17 and 18 03	51 to 60 09
19 and 20 04	61 to 70 10
21 to 25 05	71 and over 11
26 to 30 06	Unknown UN

8. MARITAL STATUS ☐☐

Single 01	Widowed 06
Married 02	Commonlaw 08
Divorced 03	Unknown U N
Separated 04	

9. PREVIOUS DRIVING RECORD ☐

Driving while impaired 1	
Regulatory offenses 2	
Statutory offenses 3	
D.W.I. and Statutory 4	
D.W.I. and Regulatory 5	
Statutory and Regulatory 6	
Unknown U	

10. TYPE OF VEHICLE ☐

Car 1	Motorhome 5
Pickup 2	Motorcycle 6
Van 3	Other 7
Truck 4	Unknown U

11. YEAR OF VEHICLE 19☐☐

U N

12. HOW DETECTED ☐

Routine check 1	Reported by public 4
Accident 2	Other offense 5
Roadblock 3	Unknown U

13. WHERE COMING FROM ☐

Home 1	Friends 5
Work 2	Recreation 6
Party 3	Other 7
Bar 4	Unknown U

14. WHERE STOPPED ☐

In residence area 1	
Outside residence area 2	
Unknown U	

15. DAY OF WEEK ☐

Sunday 1	Thursday 5
Monday 2	Friday 6
Tuesday 3	Saturday 7
Wednesday 4	Unknown U

16 TIME OF DAY ☐☐

00.00 – 01.59 01	14.00 – 15.59 08
02.00 – 03.59 02	16.00 – 17.59 09
04.00 – 05.59 03	18.00 – 19.59 10
06.00 – 07.59 04	20.00 – 21.59 11
08.00 – 09.59 05	22.00 – 23.59 12
10.00 – 11.59 06	Unknown UN
12.00 – 13.59 07	

17. BREATH ALCOHOL CONCENTRATION ☐☐☐

U N K

18. REPORT TO CROWN COUNSEL REJECTED BY CROWN COUNSEL ☐

Section 234 1	Section 234 & 236 5
Section 235 2	DWI & other charges 6
Section 236 3	Unknown U
Section 234 & 235 4	Not Applicable N

19. NUMBER OF CHARGES LAID ☐

Section 234 1	Section 234 & 236 5
Section 235 2	DWI & other charges 6
Section 236 3	Unknown U
Section 234 & 235 4	Not Applicable N

20. PLEAD GUILTY FIRST APPEARANCE ☐

Section 234 1	Section 234 & 236 5
Section 235 2	DWI & other charges 6
Section 236 3	Unknown U
Section 234 & 235 4	Not Applicable N

21. PLEAD GUILTY 2ND APPEARANCE ☐

Section 234 1	Section 234 & 236 5
Section 235 2	DWI & other charges 6
Section 236 3	Unknown U
Section 234 & 235 4	Not Applicable N

22. PLEAD GUILTY ON THIRD OR MORE APPEARANCES ☐

Section 234 1	Section 234 & 236 5
Section 235 2	DWI & other charges 6
Section 236 3	Unknown U
Section 234 & 236 4	Not Applicable N

23. ONE REMAND ☐

Section 234.1	Section 234 & 236 5
Section 235 2	DWI & other charges 6
Section 236 3	Unknown U
Section 234 & 236 4	Not Applicable N

24. TWO REMANDS ☐

Section 234 1	Section 234 & 236 5
Section 235 2	DWI & other charges 6
Section 236 3	Unknown U
Section 234 & 235 4	Not Applicable N

25. THREE OR MORE REMANDS ☐

Section 234 1	Section 234 & 236 5
Section 235 2	DWI & other charges 6
Section 236 3	Unknown U
Section 234 & 235 4	Not Applicable N

26. CHARGES WHERE STAY OF PROCEEDINGS ENTERED ☐

Section 234 1	Section 234 & 236 5
Section 235 2	DWI & other charges 6
Section 236 3	Unknown U
Section 234 & 235 4	Not Applicable N

27. CHARGES SET FOR TRIAL ☐

Section 234 1	Section 234 & 236 5
Section 235 2	DWI & other charges 6
Section 236 3	Unknown U
Section 234 & 235 4	Not Applicable N

28. CHARGES TRIAL ACTUALLY HELD ☐

Section 234 1	Section 234 & 236 5
Section 235 2	DWI & other charges 6
Section 236 3	Unknown U
Section 234 & 235 4	Not Applicable N

29 CHARGES DISMISSED AFTER TRIAL ☐

Section 234 1	Section 234 & 236 5
Section 235 2	DWI & other charges 6
Section 236 3	Unknown U
Section 234 & 235 4	Not Applicable N

30 CHARGES DISMISSED ON TRIAL FOR LACK OF PROSECUTION ☐

Section 234 1	Section 234 & 236 5
Section 235 2	DWI & other charges 6
Section 236 3	Unknown U
Section 234 & 235 4	Not Applicable N

31. CHARGES FOUND GUILTY AFTER TRIAL ☐

Section 234 1	Section 234 & 236 5
Section 235 2	DWI & other charges 6
Section 236 3	Unknown U
Section 234 & 235 4	Not Applicable N

32. CHARGES WHERE CONVICTION APPEALED ☐

Section 234 1	Section 234 & 236 5
Section 235 2	DWI & other charges 6
Section 236 3	Unknown U
Section 234 & 235 4	Not Applicable N

33. CHARGES WHERE ACQUITTAL APPEALED ☐

Section 234 1	Section 234 & 236 5
Section 235 2	DWI & other charges 6
Section 236 3	Unknown U
Section 234 & 235 4	Not Applicable N

APPENDIX B

Criminal Code Sections 234, 235, 236

DRIVING WHILE ABILITY TO DRIVE IS IMPAIRED—Conditional and absolute discharge.

234. (1) Every one who, while his ability to drive a motor vehicle is impaired by alcohol or a drug, drives a motor vehicle or has the care or control of a motor vehicle, whether it is in motion or not, is guilty of an indictable offence or an offence punishable on summary conviction and is liable

(a) for a first offence, to a fine of not more than two thousand dollars and not less than fifty dollars or to imprisonment for six months or to both;

(b) for a second offence, to imprisonment for not more than one year and not less than fourteen days; and

(c) for each subsequent offence, to imprisonment for not more than two years and not less than three months. 1968-69, c. 38, s. 16; 1974-75-76, c. 93, s. 14(1).

(2) Notwithstanding subsection 662.1(1), where an accused pleads guilty to or is found guilty of an offence under subsection (1), the court before which he appears may, after hearing medical or other evidence, if it considers that the accused is in need of curative treatment in relation to his consumption of alcohol or drugs and that it would not be contrary to the public interest, instead of convicting the accused, by order direct that the accused be discharged upon conditions prescribed in a probation order, including a condition respecting his attendance for curative treatment in relation to his consumption of alcohol or drugs, and the provisions of subsections 662.1(2) to (4) apply *mutatis mutandis*. 1974-75-76, c. 93, s. 14(2).

SAMPLES OF BREATH WHERE REASONABLE BELIEF OF COMMISSION OF OFFENCE UNDER S. 234 OR 236—Failure or refusal to provide sample.

235. (1) Where a peace officer on reasonable and probable grounds believes that a person is committing, or at any time within the preceding two hours has committed, an offence under section 234 or 236, he may, by demand made to that person forthwith or as soon as practicable, require him to provide then or as soon thereafter as is practicable such samples of his breath as in the opinion of a qualified technician referred to in subsection 237(6) are necessary to enable a proper analysis to be made in order to determine the proportion, if any, of alcohol in his blood, and to accompany the peace officer for the purpose of enabling such samples to be taken.

(2) Every one who, without reasonable excuse, fails or refuses to comply with a demand made to him by a peace officer under subsection (1) is guilty of an indictable offence or an offence punishable on summary conviction and is liable

(a) for a first offence, to a fine of not more than two thousand dollars and not less than fifty dollars or to imprisonment for six months or to both;

(b) for a second offence, to imprisonment for not more than one year and not less than fourteen days; and

(c) for each subsequent offence, to imprisonment for not more than two years and not less than three months. 1968-69, c. 38, s. 16; 1974-75-76, c. 93, s. 16.

DRIVING WITH MORE THAN 80 MGS. OF ALCOHOL IN BLOOD — Conditional and absolute discharge.

236. (1) Every one who drives a motor vehicle or has the care or control of a motor vehicle, whether it is in motion or not, having consumed alcohol in such a quantity that the proportion thereof in his blood exceeds 80 milligrams of alcohol in 100 millilitres of blood, is guilty of an indictable offence or an offence punishable on summary conviction and is liable

***(a)* for a first offence, to a fine of not more than two thousand dollars and not less than fifty dollars or to imprisonment for six months or to both;**

***(b)* for a second offence, to imprisonment for not more than one year and not less than fourteen days; and**

***(c)* for each subsequent offence, to imprisonment for not more than two years and not less than three months.**

(2) Notwithstanding subsection 662.1 (1), where an accused pleads guilty to or is found guilty of an offence under subsection (1), the court before which he appears may, after hearing medical or other evidence, if it considers that the accused is in need of curative treatment in relation to his consumption of alcohol and that it would not be contrary to the public interest, instead of convicting the accused, by order direct that the accused be discharged upon conditions prescribed in a probation order, including a condition respecting his attendance for curative treatment in relation to his consumption of alcohol, and the provisions of subsections 662.1(2) to (4) apply *mutatis mutandis*. 1959, c. 41, s. 15; 1968-69, c. 38, s. 16; 1974-75-76, c. 93, s. 17.

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